

REMARKS

The Applicants wish to thank the Examiner for thoroughly reviewing and considering the pending application. The Office Action dated January 18, 2005 has been received and carefully reviewed. Claims 1, 3, 4, 9, 12, and 25 have been amended. Claims 1-38 are currently pending. Reexamination and reconsideration are respectfully requested.

The Office Action rejected claims 1-3, 6-8, 11-14, 16-19, 22, 24-27, 30-32, 35, 37, and 38 under 35 U.S.C. §102(b) as being anticipated by EP 1,201,981 to *Tamborini et al.* (hereinafter "*Tamborini*"). The Applicants respectfully traverse this rejection.

As required in Chapter 2131 of the M.P.E.P., in order to anticipate a claim under 35 U.S.C. §102, "the reference must teach every element of the claim." The Applicants respectfully submit that *Tamborini* does not do so. Claims 1 and 25 have been amended to include a portion of the subject matter recited in claims 3 and 4. In particular, claims 1 and 25 have been amended to recite a continuous drain hose comprising, among other features, an elastic connection member integrally molded to a first end portion, wherein the first end portion includes at least one annular ring which engages the elastic connection member. As correctly pointed out in the Office Action, *Tamborini* does not disclose this feature. See Office Action at page 3. However, in the rejection of claim 4 under 35 U.S.C. § 103(a), the Office Action stated that this feature is disclosed in U.S. Patent No. 4,852,564 to *Sheridan et al.* (hereinafter "*Sheridan*") and that claim 4 is obvious in view of the combined teaching of *Tamborini* and *Sheridan*.

The Applicants submit that *Tamborini* and *Sheridan* are not combinable. According to Chapter 2141.01(a) of the M.P.E.P., a reference relied upon under 35 U.S.C. § 103 must be an analogous reference. In order to rely on a reference as a basis for rejection of an Appellant's invention, the reference must either be in the field of Appellant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. The

Applicants respectfully submit that *Sheridan* is nonanalogous nor does it address the particular problem that is of concern in *Tamborini* and the present application. Thus, it is not available as a reference under 35 U.S.C. § 103.

Sheridan is not in *Tamborini*'s field of endeavor. *Tamborini* relates to an outlet hose for use with household appliances. See e.g., col. 1, ll. 5-7. The main object of *Tamborini* is to provide a flexible outlet hose that can be fitted to different types of machines. See e.g., col. 1, ll. 54-58. In contrast, *Sheridan* relates to medico-surgical, intubation tube devices that are used in conjunction with fluid flow machines. The main object of *Sheridan* is to provide a hose that does not interfere with patient problems. The Applicants therefore respectfully submit that the household appliance hoses disclosed in *Tamborini* and the medical intubation tubes disclosed in *Sheridan* are non-analogous subject matter. Moreover, the problems solved by *Tamborini* and *Sheridan* are completely different: universal hosing that can be used with different types of household appliances versus medical tubing that minimizes interference with patient operations during treatment.

Because the fields of endeavor of *Tamborini* and *Sheridan* are completely different and because they are directed to solving completely different problems, one of ordinary skill in the art considering the problems addressed by one would not turn to the other for a solution. Therefore, one of ordinary skill would not have been motivated to combine the teachings of these two references as suggested by the Official Action. The Applicants therefore respectfully submit that a *prima facie* case of obviousness has not been established with respect to the subject matter now recited in claims 1 and 25 in view of *Tamborini* and *Sheridan*. Accordingly, the Applicants submit that amended claims 1 and 25 are patentable over *Tamborini* and *Sheridan*. Claims 2, 3, 6-8, and 11, which depend from claim 1; and claims 26, 27, 30-32, 35, 37, and 38, which depend from claim 25, are also patentable over these references for at least the same reasons.

Claim 12 has been amended to recite a continuous drain hose which includes, among other features, “an elastic connection member, wherein said first bellows member is disposed within said elastic connection member.” *Tamborini* does not disclose this feature. While *Tamborini* does teach a bellows 3 and a straight sleeve element 2, assuming *arguendo* that the straight sleeve element 2 constitutes an elastic connection member, claim 12 still distinguishes over *Tamborini* because the bellows element 3 is not disposed within the straight sleeve element 2. *Tamborini* also discloses a bellows element 6 and an outlet sleeve 7. However, the outlet sleeve 7 is not an elastic member, and, as seen in Figure 1 of *Tamborini*, the bellows element 6 is not disposed within the outlet sleeve 7. For at least these reasons, the Applicants submit that claim 12, and claims 13, 14, 16-19, 22, and 24, which depend from claim 12, are patentable over *Tamborini* and request that the rejection be withdrawn.

In addition, the Office Action rejected claims 4, 9, 15, 20, 28, and 33 under 35 U.S.C. § 103(a) as being unpatentable over *Tamborini* in view of U.S. Patent No. 4,852,564 to *Sheridan et al.* (hereinafter “*Sheridan*”). As discussed above, *Tamborini* and *Sheridan* are not combinable because they involve non-analogous subject matter and because they address completely different problems. Accordingly, claims 4, 9, 15, 20, 28, and 33 are patentable and the rejection should be withdrawn.

The Office Action also rejected claims 5, 23, and 36 under 35 U.S.C. § 103(a) as being unpatentable over *Tamborini* in view of U.S. Patent No. 5,507,319 to *Kanao* (hereinafter “*Kanao* ‘319’”). The Applicants traverse the rejection.

As required in Chapter 2143.03 of the M.P.E.P., in order to “establish *prima facie* obviousness of the claimed invention, all the limitations must be taught or suggested by the prior art.” The Applicants respectfully submit that neither *Tamborini* nor *Kanao* ‘319, either singularly or in combination, disclose each and every element recited in claims 5, 23, and 36. As

previously discussed, *Tamborini* fails to disclose all the elements recited in claims 1, 12, and 25, the base claims from which claims 5, 23, and 36 depend, respectively. *Kanao* '319 fails to overcome the previously detailed shortcomings of *Tamborini*, namely, an elastic connection member integrally molded to a first end portion, wherein the first end portion includes at least one annular ring which engages the elastic connection member, as recited in amended claims 1 and 25. In addition, *Kanao* '319 does not disclose an elastic connection member wherein a first bellows member is disposed within the elastic connection member, as recited in claim 12. Accordingly, the Applicants submit that claims 5, 23, and 36 are patentable over *Tamborini* in view of *Kanao* '319 and request that the rejection be withdrawn.

In addition, the Office Action rejected claims 10, 21, 29 and 34 under 35 U.S.C. § 103(a) as being unpatentable over *Tamborini* in of U.S. Patent No. 5,311,753 to *Kanao* (hereinafter "*Kanao* '753"). The Applicants traverse the rejection. As detailed above, *Tamborini* fails to disclose all the elements recited in claims 1, 12, and 25, the base claims from which claims 10, 21, 29 and 34 depend, respectively. Similarly, *Kanao* '753 fails to address the above-noted shortcomings of *Tamborini*, including an elastic connection member integrally molded to a first end portion, wherein the first end portion includes at least one annular ring which engages the elastic connection member, as recited in amended claims 1 and 25. In addition, *Kanao* '753 does not disclose an elastic connection member wherein a first bellows member is disposed within the elastic connection member as recited in claim 12. Therefore, the Applicants submit that claims 10, 21, 29 and 34 are patentable over *Tamborini* in view of *Kanao* '753 and request that the rejection be withdrawn.

The application is in condition for allowance and favorable action is respectfully solicited. If for any reason the Examiner has any questions regarding this application, the Examiner may call the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: May 17, 2005

Respectfully submitted,

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